In the Supreme Court of the United States.

OCTOBER TERM, 1904.

GEORGE W. BEAVERS, APPELLANT,
v.
CHARLES J. HAUBERT, UNITED STATES marshal, etc. } No. 355.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF NEW YORK.

MOTION TO ADVANCE.

The appellant, George W. Beavers, was indicted by the grand jury of the District of Columbia on the 5th day of October, 1903, for having violated section 5501 of the Revised Statutes. The indictment charges that while George W. Beavers was an officer of the United States, to wit, superintendent of the Division of Salaries and Allowances in the office of the First Assistant Postmaster-General, and while acting for and in behalf of the United States in such official capacity, he accepted and received a large sum of money with the intent and upon the understanding that his official action and decision with reference to certain matters pending before him as such Government official should be influenced thereby.

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A bench warrant having been issued by the supreme court of the District of Columbia for the arrest of said Beavers, and said warrant having been returned into said court with the marshal's indorsement thereon that said Beavers could not be found within said district, on June 3, 1904, said Beavers was arrested in the city of Brooklyn upon a warrant issued by B. Lincoln Benedict, a United States commissioner for the eastern district of New York. Said commissioner's warrant was issued under and pursuant to the provisions contained in section 1014 of the Revised Statutes, for the purpose of securing the appearance of the said George W. Beavers for trial in the supreme court of the District of Columbia upon said indictment. At the time of this arrest, Beavers was under bond to appear before the United States district court for the eastern district of New York to answer an indictment under section 1781 of the Revised Statutes. (*Beavers* v. *Henkel*, 194 U. S., 73.)

Upon being arraigned before United States Commissioner Benedict, objection was made on behalf of the accused that the commissioner was without jurisdiction to proceed with the hearing, for the reason that the defendant was then under indictment in the United States district court for the eastern district of New York, and was under bond to appear before that court, and that it was the duty of the Government to dispose of that case, either by trial or a *nolle prosequi*, before any proceedings could be instituted under section 1014 for the purpose of holding the accused for appearance be-

fore the supreme court of the District of Columbia. This objection was, however, overruled by the commissioner, who proceeded to hear the case without regard to the Brooklyn indictment, holding in effect that the pendency of an indictment in the United States court at Brooklyn could not operate to prevent the Government from instituting proceedings under section 1014 to hold the defendant for appearance in the District of Columbia; That before the defendant could be removed under such proceedings to Washington, it was necessary that an application be made to the district judge for an order of removal, at which time the court and the district attorney could decide whether jurisdiction of the defendant under the Brooklyn indictment would be waived and the prisoner sent to Washington, or whether he should be held for trial under the Brooklyn indictment and the application for the order of removal be denied.

On the 17th day of June, 1904, Beavers applied to the circuit court of the United States for the eastern district of New York for a writ of habeas corpus for the purpose of testing the jurisdiction of the commissioner to proceed with this hearing, and the writ was issued upon the same day. The case was thereafter duly heard upon said writ, and on the 29th day of June, 1904, the circuit court dismissed the petition and discharged the writ, and remanded Beavers to the custody of the marshal. This appeal is taken for the purpose of reviewing the decision of the circuit court in dismissing the writ.

This case is one of several prosecutions growing out

of the frauds in connection with the Post-Office Department, and is of general public interest.

In order that a prompt trial on the merits may be had, if possible, the Solicitor-General, on behalf of the United States, suggests that the case be set down for hearing late in January or in the early part of February next.

Notice of this motion has been served upon counsel for the appellant.

HENRY M. HOYT,
Solicitor-General.

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